IS VESTRY'S CONTENTION IN FIGHT TO SAVE ST. JOHN'S.

Argument on Injunction Gets's Start-Words Col. Jay and Other Vestrymer Uttered in 1902 Quoted Against Them-An Issue of Justice, Not Law

The business of manu-

facturing securities is essen-

tially fiduciary in nature: The

house which conducts it must

Enormous values in ne-

gotiable paper are entrusted

to its care. It undertakes the

task not only of guarding this

paper during manufacture but

also of caring for the plates

from which the issue has been

The American Bank Note

Company has been making

plates and guarding them for

American Bank Note

Company

Broad and Beaver Sts., New York

Boston Philadelphia Baltimore Atlanta

Pittsburg St. Louis San Francisco

a strong sentimental plea in behalf of the

in St. John's. He concludes:

municants whose parents and children been baptized, wedded and buried

their fathers. They have no money-

TO TRY INDICTED BANKERS.

der Locked Up When Not Sitting.

former president of the Eagle Savings

and Loan Company, and Quarantine

Commissioner Frederick H. Schroeder,

former second vice-president of that

company, was begun yesterday before

Justice Jaycox in the Supreme Court in

Brooklyn. The men-both of whom are

prominent, Col. Britton being an author-

ity on National Guard matters and Mr.

Schroeder the Republican leader of the

Sixth Assembly district-were indicted

jointly on several counts of larceny

indictment charging the larceny of \$4,000.

the recent financial stringency and con-

sisted of the principals obtaining money

as cash by Joseph Wood, secretary and

mately intended to make good. Both were interested in the Homestake South

Extension Mining Company, and it is said made temporary if irregular loans from one company in order to bolster

much suicker the case could be tried in that way and how little fun they would

VELEZ CONFIRMED.

New Cuban Minister to Washington Ap-

proved by the Cuban Senate.

Special Cable Despatch to THE SUN.

HAVANA, March 1.-The Senate to-day

confirmed the nomination of Carlos Garcia

Embaimed Body in Seized Box.

Willard Parker Hospital yesterday and

found to contain the embalmed body of a woman. The Health Board turned

office to see if the law had been violated in withholding a corpse from burial. A man named Tocci says the body was obtained from Bellevue for an experiment

in embalming. This will be inquired into. Meantime the Health Board would

Ellen Peck Tries to Keep Out of Jail.

Ellen Peck, the old confidence woman

who was sentenced to ten years imprisonment last week for grand larceny, ob-

tained yesterday from Justice Fitzgerald

in the Supreme Court an order requiring District Attorney Jerome to show cause why a certificate of reasonable doubt should not issue. The argument will be heard in Special Term Part II. on Thurs-

The Weather.

A moderate depression existed yesterday in

the upper Mississippi Valley, reaching south-west into Oklahoma. There was light snow in the Lake regions and light rain at a few points

in the middle and lower Mississippi Valley. The

Northwestern depression lingered over western Canada, attended by snow in Montana and rain

n Washington. Light snow fell in northern

erally fair. A high pressure covered the Gui-

States and all the country east of the Alleghanies

New England and in Montana and North Dakota

In practically all other parts of the country i

was warmer, notably so in the central valleys and

In this city the day was fair and colder in the

morning: moderating; wind, light southerly; average humidity, 53 per cent.; barometer, corrected to read to sea level at 8 A. M., 30.27; 3

P. M., 30.22.

The temperature yesterday, as recorded by the

official thermometer, is shown in the annexed

Lowest temperature, 27°, at 7:30 A. M.

WASHINGTON FORECAST FOR TO-DAY AND

For easiern New York and New England, roin is

southern, rain or angue in northern portions to-day;

1909. 1908. 1909. 1909. 34° 24° 6 P. M. 37° 31° 29° 9 P. M. 38° 38° 27° 12 Mid. 36°

ew York and New England.

the middle and upper Lake regions.

9 A. M..... 12 M..... 3 P. M.....

Velez to be Cuban Minister at Washing-

that way and how little fun they have in the hotel

amounting to \$7.348.17, but Assistant

The trial of Col. Edward E. Britton

printed.

a hundred years.

be absolutely dependable.

A preliminary skirmish in the legal battle to prevent the Trinity Church Corporation from closing St. John's Chapel, in Varick street, and transferring the congregation to St. Larke's tas fought yesterday before Justice O'Gorman in the Supreme Court. An extensive array of legal talent was on hand, including Francis Lynde Stetson, George Zabriskie, Charles L. Jones and Jay & Candler for Trinity and ex-Surrogate Beckett and William H. Hamilton for John Burke and the half dozen other members of St. John's congregation who are prepared to fight to a finish the attempt to close the chapel and debrive them of what they consider their vested rights as electors of Trinity.

Surrogate Beckett and Mr. Zabriskie managed to get in quite a few of their respective legal points, but Justice O'Gorman cut them short at 4 o'clock and adharmed the argument until this afternoon. The temporary infunction granted exparte by Justice Erlanger about a month ago restrains the Trinity Corporation from interfering in any way with the present management of St. John's. In effect it compels the maintenance in office of the present officers of the chapel, and Mr. Zabriskie in his opposing argument said that the restraining order for all practical purposes places the chapel under the management of the Supreme tourt. It was the first time, Mr. Zabriskie said, that he had ever heard of a court attempting to run a church, and he went on to say that, the order was broader even than the relief asked for in the complaint, which was only that such thers as were necessary should be re-

Justice O'Gorman suggested that this situation could easily be remedied by amending the order so that it would only prevent interruption with the usual ervices and orderly work of the chapel. Jurors in the Case of Britten and Schroe Mr. Zabriskie agreed to this and was shout to enter on his main argument to the effect that the Court had no power to set aside or interfere with the rulings of the vestry of Trinity, when Justice O'Gorman adjourned the hearing. Both sides, however, had prepared

briefs and affidavits and some of these were filed with the Court. Col. William Jay filed a voluminous affidavit in which he declares as senior warden of Trinity Thurch and clerk of the vestry that "it has never been the intention of the vestry that the closing of St. John's Chapel or the consolidation of the work of that thapel with the work of St. Luke's Chapel should deprive any of the members of the congregation of St. John's Chapel of any tights which they might have as cor-sorators of Trinity Church or as voters at the annual election of church mandet the annual election of church wardens and vestrymer

Col. Jay went on to say that "Trinity Church is one parish; one body of parish-ioners * * * the parish church and all the chapels are together the liome of all the parishioners, and whether they worship habitually at one or at another makes no difference in their parochial rights or privileges. Neither does affect them though in the course of corporate year a parishioner remove from one church or chapel to another." In the course of his attidavit Col. Jay also set forth:

To the best of my knowledge, information and belief there is no canon or law of the Protestant Episcopal Church in the United States or in the Diocese of New York limiting or restricting the rector, church wardens and vestrymen of Trinity Church from closing, stopping or terminating the work or services, religious or otherwise, or any part of such work or services connected with st. John's chapel, or from discharging ministers thereof, the organist, choristers, families and procure the families and procure the sextons or any other employees or helpers, sextons or any other employees or helpers. The jurors agreed to respect to the families and procure the families are procured to the families and procure the families are procured to the families and procure the families are procured to the families are proc from closing the doors of such chapel. The jurors agreed to night sessions from barring or excluding therefrom the after Justice Jaycox had told them how congregation thereof, or any of them.

letter written by S. P. Nash, clerk A letter written by S. P. Nash, clerk of the vestry, in 1894 to Bishop Potter, asking the latter's consent to the sale of St. John's Chapel, was quoted by Col. Jay to show that fifteen years ago the vestry had decided that St. John's must give way for business peasons, and, much all the vestry regretted it, the chapel would have to be torn down and another St. John's substituted in a more suitable locality.

To this Bishop Potter replied with a reluctant consent, regretting that the beautiful and historic chapel should have to go down before the march of this peak progress.

Col Jay submits that this written conent by Bishop Potter, given in 1894, was all the consent required to enable the vestry to carry out at any time its intention, then declared, of closing St.

Another line in the Trinity defence is

that the corporation is not subject to the religious corporations law, because it was established by a royal charter and is thereby exempt from the laws applicable to other religious corporations created after July 4, 1776. On this defence the Trinity lawyers will rely as removing the matter at issue wholly out of the jurisdiction of the Suprass Court. Ex-Surrogate Beckett in elaborate brief, part of which he was able to present yesterday, seeks to riddle all the Trinity lines of detence. He points out that whatever was the intention of the vestry as to providing a better church and greater missionary work for the congregation of St. John's nothing has been done so far except the attempt to close the chapel.

As to the consent by Bishop Potter, Mr. Beckett urges that since it was neve acted upon and was only granted on the distinct understanding that a new chapel and parish building were to be erected, which was never done, the consent may well be considered to have lapsed. Mr. Beckett further experience that the constant of the const

Beckett further maintains that it can be shown that Bishop Potter eventually withdrew his consent. Mr. Beckett also submits to the Court Mr. Beckett also submits to the Court a memorial signed on November 1, 1902, by Col. Jay and fifteen other vestrymen, addressed to the Rev. Morgan Dix on the eccasion of his fiftieth anniversary. In this memorial the vestrymen congratulated themselves and Dr. Dix and returned thanks to Providence because "Old Trinity, St. Paul's and St. John's are still open daily for services of prayer

are still open daily for services of prayer and praise." The address concludes with the expression, still referring to these three churches. with the expression, still referring to these three churches:
"And though they might be sold for much money, we believe that they silently tell the story that there are some things which money cannot buy."

The plea that the congregation of St. John's will not be disfranchised by the proposed transfer to St. Luke's is met by Mr. Beckett with the argument that St. Luke's has always been a "free mission"

by Mr. Beckett with the argument that St. Luke's has always been a "free mission" chapel, and as such its members have never been allowed to vote in Trinity. No suggestion that they could so vote was ever made, Mr. Beckett says, until Dr. Manning last Sunday announced that a way had been found" by which it was hoped the members of St. Luke's would be able to vote at the next election.

be able to vote at the next election.

Mr. Beckett maintains also that the exemption given by statute to the religious corporations which were created by special act or statute before the Day of Independence, does not apply to corporations greated by royal sharter, which, he Independence, does not apply to corpora-tions created by royal charter, which, he says, is not an act or statute in the meaning

of our laws.

Mr. Beckett reviews briefly in his argument the history of St. John's and makes

FROM SING SING TO BROOKLYN TO ARGUE FOR FREEDOM.

Convicted Murderer of Wm. Rice Contends That Commutation of His Death Sentence Was Illegal-His Wife in Court-Another Hearing Friday.

of the murder of William M. Rice, got out of Sing Sing prison again for a brief while yesterday to try the latest plan hatched by his fertile brain to restore his freedom. It was only a brief excursion that Patrick had yesterday, but he next Friday, so that even if he fails to win his freedom, which looks doubtful, his latest plan will have been the means of breaking the monotony of prison life.

Ever since Patrick was convicted and sent to a cell up the river, at first to die, he has been busy trying to find the legal tools that would get him out, but when Gov. Higgins commuted his sentence to life imprisonment three years ago it looked to every one but Patrick as though with his life saved his brain would have a rest. But the Governor had hardly signed his commutation before the convict made the first move in the case which

brought him into court yesterday. It was Patrick's contention now that imprisonment Gov. Higgins performed a legislative action, as the law does not "The real issue in this case is not an issue of law and technicalities; it is an recognize that punishment for first degree issue of morals and human justice; a congregation of poor people are defending their right to worship God in the church murder. Eliminate the part of the Governor's action substituting imprisonment for life and you have the death penalty remitted and no punishment in its stead, of their fathers. They have no money—
all the money is against them in the hands
of the richest church corporation in the
world. It is the struggle of the poor
against the rich. Trinity Church stands
at the bar of public conscience, no subterfuge or evasion will be permitted; it
will not suffice to prove that it has the which, as Patrick figures it out, means that rightfully he is a free man and ought to be allowed to walk out of Sing Sing. The Governor's action remitting the death penalty can't be revoked and nobody now can substitute any punishment; this is the prisoner's theory.

power to expel this congregation, it must justify itself in the eyes of God and man." Patrick did not explain his latest solution of his interesting puzzle yesterday. He asked for more time, which means

another trip later in the week. When he appeared in the Appellate Division in Brooklyn there was little to distinguish him from the fifty or more lawyers who sat in the court room waiting for their cases to be called. He slipped into his seat as naturally as when years ago he used to appear for clients. He wore a dark blue suit, a white shirt and a black tie. There wasn't a trace of prison pallor about him; his cheeks had almost the glow of health and he spoke without any embarrassment when it came his

The handcuffs which had bound him to door of the court room. Waiting for him there was a plain little woman dressed in black and wearing a pair of gold spec-tacles. She was Mrs. Patrick.

in black and wearing a pair of solutions. She was Mrs. Patrick.

The hearing was on a return of the writ granted by Justice Gaynor. Robert C. Taylor of Mr. Jerome's office was there to represent the people. In the return the Warden disputed Patrick's contention that he had never accepted life imprisonment when it was granted by the Governor, which called up a question of fact. Justices Jenks, Gaynor, Woodward, Burr and the trial proceeded.

The result was that Mathis was sentenced to four years imprisonment, to be followed by five years expulsion District Attorney Elder will make his fight for conviction on the particular The alleged larcenies occurred during on worthless checks which were carried Rich were sitting and they seemed as much interested in Patrick as were the lawyers treasurer of the loan company, and which the defendants declare that they ulti-

in the court room.

Assistant District Attorney Taylor, who Assistant District Attorney Taylor, who began the proceedings, said that if the commutation of the Governor was void then Patrick was held under the original judgment—the death sentence. If it was valid then he was held under the commu-

"I don't see how he can blow hot and ted an adjournment then. Patrick .

from one company in order to bolster up the other.

The jury that will try the defendants was completed yesterday, and contrary to precedent as established in Kings county, will be locked up pending a verdict. It is an unusually youthful jury. Justice Jaycox said that he thought better chances of correct and just results would come from locking them up, that the action in no way reflected on them He also wanted to be remanded to the ustody of the Sheriff, which would mean that the action in no way reflected on them that he could stay in Brooklyn for a while, but Justice Jenks said that he would have At the moment of starting the carriage or their counsel, but that he though their minds would unconsciously become col-ored if they were allowed to communito go back to Sing Sing, and he put the case down for Friday at 1 o'clock. Patrick accepted this, but he got permission to talk over the case with the District Attorney for a while and all hands went into the coursel means and all hands went. cate with others Immediately messen-gers were sent out to notify the various families and procure the necessary artorney for a while and all hands went into the counsel room, where Patrick sat down beside his wife

It was decided at this conference to try the question of law first, namely, whether or not the Governor had the right to commute the sentence, which would obviate the necessity of putting in evi-dence to show that Patrick had accepted it. When the conference was over at 4 o'clock Patrick got up in court and in his soft voice said that it had been agreed

that the argument should be on the mo-tion to quash the writ.
"There are three points involved," said Patrick, while the lawyers bent forward, listening. "These are: whether there should be life imprisonment, whether the petitioner should be discharged or whether he should be remanded to the death penalty. In view of the serious-ness of the matter and the constitutional The box seized at an undertaker's on Mulberry street on Saturday by the argument extended. We will try to be as Health Department was operated at the Silbert Parker Hospital vesterday and case. We apprehend that the District Attorney has entirely misunderstood our case, also the bench and bar. For some of our points there are no precedents whatever, but the Court will find that our argument is based on substantial grounds that will require serious consideration."
When Patrick sat down Justice Jenks assured him that there was no disposition to preclude such a discussion of the case as he desired, and Patrick bowed his ac-

like to know if anybody has used it to knowledgment. The case was then adjourned until Friday.

Patrick's wife accompanied him as far as the Grand Central Station. Patrick was handcuffed again. His wife carried several legal books and they formed an several legal books and they formed an interesting group on the subway train. Neither seemed to mind being stared at. When they reached the station Patrick kissed his wife good-by and hurried through the gate with Detective Jackson just in time to catch the 5:03 train.

William F. McDonald, Patrick's lawyer, was with him in court vesterday, but did

was with him in court yesterday, but did not do any talking. He said that both he and Patrick would be heard on the

Patrick is on the way to freedom reaction is on the way to freedom, he said. "If we lose here we will carry the case to the Court of Appeals and if need be to the Supreme Court, but in the end we believe that we will win."

If there is a decision either way in

Friday's argument there will be another hearing on the question of fact involved. If Patrick loses he will probably get another writ anyway.

"Patrick will keep on getting writs until he dies, and there is nothing that can stop him doing that," said Assistant Distriot Attorney Johnson, who took Mr. Taylor's place.

BALDWIN INTERESTS PAID. All Litigation With Calumet and Heela

Dropped Since priliement. BOSTON, March 1 .- The New York interests in Bigelow securities have received payment for their stocks in money and notes through the Chase National Bank. It is understood that Frederick and Walter Lewisohn received approximately \$1,000,000 for their holdings in

Tamarack, Isie Royale and Osceola. There will be no hearing in Cincinnati to-morrow in the Bigelow-Calumet and Hecla litigation, as all litigation has been withdrawn.

to wasterly, winds.

For the District of Columbia, eastern Pennsylvania. New Jersey, Delaware. Maryland and Virginia, showers to day; fair to morrow; moderate southerly, shifting to westerry, winds.

For western Pennsylvania, western New York and Oalo, showers to day; fair to morrow. There will be no election of officers for

ALBERT T. PATRICK IN COURT FOUND GUILTY OF GRAFTING. CARMACK HAD PISTOL READY Pittsburg Jury After Long Deliberation

> PITTSBURG, Mar. 1.-After fifty-three hours of deliberation the jury having the cases of alleged grafting Councilmen and bankers to-day returned a verdict that President William Brand of the Common Council and Councilman John F. Klein and Joseph Wasson are guilty of conspiracy as indicted. The jury

Albert T. Patrick, who was convicted recommended mercy.

The murder of William M. Rice, got It is understood that one juryman held out for acquittal but was finally won over by the other jurymen agreeing to with the murder of ex-United States ask the Court's mercy.

William Ramsey, ex-president of the German National Bank of Pittsburg, will have a chance to visit town again was cleared under the Court's instructions, it having been admitted in open court some days ago by the Prosecuting Attorney that he had no evidence against Ramsey.

The penalty is imprisonment not exeding two years and a fine not exceeding \$500.

The jury had been looked up like a murder trial jury for more than a week and were well tired out. They had not been permitted to communicate with their friends in any way, so carefully were they guarded from possibility of

bribery.

The appeal which the Councilmen will make to the higher court is expected to show up some interesting things. It is printed here to-day and openly asserted by friends of the convicted Councilmen that their witnessess were fairly chased he never accepted the Governor's commutation and that it was illegal. He accepts the remission of the death penalty by the Executive but contends that in substituting for the death penalty life imprisonment Gar Wilson and other points. It is told how a man from Scranton who the Klein people imprisonment Gar Wilson and that their witnesses were fairly chased out of Pittsburg by the police and not permitted to come near the court house when they had been brought from Scranton who the Klein people imprisonment Gar Wilson and that their witnesses were fairly chased out of Pittsburg by the police and not permitted to come near the court house when they had been brought from Scranton who the Klein people and not permitted to come near the court house when they had been brought from Scranton who the Klein people and not permitted to come near the court house when they had been brought from Scranton who the Klein people and not permitted to come near the court house when they had been brought from Scranton who the Klein people and not permitted to come near the court house when they had been brought from Scranton who the Klein people and not permitted to come near the court house when they had been brought from Scranton who the Klein people and not permitted to come near the court house when they had been brought from Scranton who they had been brought say is a well known business man was arrested the moment he set foot in Pittsburg by the police, who were waiting for him at the station, and thrown into a cell as a suspicious person. Later the police professed to recognize him as a "well known pickpocket" and he was hurried to jail for a short term and released only when he proprised to leave eased only when he promised to leave

> Nine other persons who were brought Nine other persons who were brought to Pittsburg by the defence to be placed on the witness stand had to be secreted in the Duquesne Club by one of the attorneys to prevent the police from getting them for "pickpockets" or preventing them from going on the witness stand. All these witnesses, it is claimed, are good people, but they were so terrified by the police that they decided to leave the city. the city

With the testimony of these witnesses, it is alleged by the defence, they would have been able to upset the entire fabric of the prosecution.

FALLIERES' ASSAILANT TRIED. Four Years in Prison and Five of Exile for Striking French President.

Special Cable Despatch to THE SUN. Paris, March 1 .- Jean Muthis the Paris, March 1.—Jean Muthis the might talk to the attorneys if they would pay the expenses of the autopsy. Fallières on Christmas Day, was tried Judge Anderson said they would agree The handcuffs which had bound him to State Detective Jackson all the way down from the prison had been taken off at the advocate occupied nearly the whole advocate occupied nearly the whole advocate occupied nearly the whole agreed to pay for the services whether the day in trying to prove the Court was inday in trying to prove the Court was incompetent to try the case as the act had been premeditated. Consequently it gow and the attorneys retired for consul-

from France.

AEROPLANE BADLY SMASHED. Wilbur Wright and a Spanish Passenger Uninjured in Mishap.

Special Cable Despatch to THE SUN Paris, March 1.-After two successful flights to-day with Count de Lambert, blow cold on the same proposition." Mr. flights to-day with count de Lamoers, Taylor con ed. "We therefore make a occupying seven and one-half and twenty one minutes respectively, Wilbur Wright made preparations for another flight with Col. Vives of the balloon contingent of

The aeroplane slid forty yards along the

ground, Mr. Wright not being able to control it. The aviators were not hurt, but the machine was seriously damaged.

POE CENTENARY IN LONDON.

Whitelaw Reid Praises His Stories, but Finds No Soul in His Verse.

Special Cable Despatch to THE SUN.
LONDON, March 1.—The Poe centennial was celebrated here to-day by 250 banqueters at the Hotel Metropole under the auspices of the Author's Club. Sir Conan Doyle presided.

Whitelaw Reid, the American Ambassador, made what was perhaps the most scholarly address that he has delivered during his Ambassadorship. He estimated Poe as the greatest of

short story writers and his poetry as being of the loftiest technical beauty, but lacking the essential element of soul.

RAISULI JOINS NEW SULTAN. New Question Arises as to Refunding of Ransom for Kald MacLean.

Special Cable Desputch to TRE SUN. LONDON, March 1 .- A despatch to the Standard from Tangier says that Raisuli, the former bandit, has made friends with the new Sultan and has obtained the Governorship of several tribes in the neighborhood of Tangier.

This involves his renunciation of British protection which was accorded to him on the occasion of his release of Kaid Sir Harry MacLean and the reimbursement of the \$100,000 paid for the Kaid's release

CIGARETTE SUIT IN SHANGHAI.

American Tobacco Company Accused of Illegal Branding of Packages. Special Cable Despatch to THE SUN

SHANGHIA, March 1.—The American killed on February 19 while attempting to arrest Edward Byrnes, known as nigger the Ginny.

The circular reads in part: using a false trademark and description in the case of a brand of cigarettes manufactured in Shanghai, but marked as if made in the United States. The hearing of the suit will take place

on March 19.

LIBERALS LOSE 1,000 VOTES. Retain Seat for Forfarshire, Scotland, by Greatly Reduced Figure.

Special Cable Despatch to THE SUN LONDON, March 1.-The by-election for Forfarshire resulted to-day in the return of Mr. Falconer, the Liberal candidate, who received 6,422 votes to 3,970 cast for his Unionist opponent, R. L. Blackburn. The vote, however, showed a reduction of 1,000 in the Liberal majority as polled at the last regular election in 1906.

POPE SEES MERRY DEL VAL. He Is Better, but General Audiences Are Still Suspended.

Special Cable Despatch to THE SUN ROME. March 1.-The Pope passed a good night and this morning Dr. Petacci allowed him to leave his bed and to receive Cardinal Merry del Vals papal Secretary of State, and his secretaries. Other audiences are still suspended.

SEEN TURNING CYLINDER FEW MINUTES BEFORE SHOOTING.

Witness Tells of Editor Taking Revolver from His Overceat Pocket in Street Just Before He Met the Coopers -Trial May Be Finished This Week.

NASHVILLE, Tenn., March 1.-The end of the trial of Col. D. B. Cooper, Robin J. Cooper and John D. Sharp, charged Senator E. W. Carmack, seems to be in sight.

The defence to-day introduced several important witnesses and several others in corroboration of the testimony given earlier in the case.

It is probable that Judge Hart's charge to the jury will be delivered next Saturday or Monday.

An interesting question was presented to Judge Hart soon after the opening of court at this morning's session, and on request of counsel the jury was excluded and the facts were laid before the Judge. It was stated by Judge Anderson that Dr. McPheeters Glasgow, a well known physician of this city, had been employed by the State to perform an autopsy on the body of Mr. Carmack, which had been buried at Columbia, in order that the direction of the wounds might be ascertained.

Information to this effect had come to the attention of the defence, and a subpoena was issued for Dr. Glasgow, thus making him a witness for the defence also, but the doctor refused to give counsel for the defendants the information he had gathered unless the State agreed to it. The attorneys for the prosecution declined to assent to this, holding that he had been employed by them in a professional capacity and that if he were compelled to impart to the other side the information he had acquired it would be just as proper for the State to summon all the defence's witnesses and endeavor to make them talk.

Judge Anderson asked Judge Hart to nstruct Dr. Glasgow to give the defence the information wanted, and the Judge thereupon told the doctor that it would be "highly proper" for him to talk to Judge Anderson and his associate counsel, but Dr. Glasgow still refused to talk unless he was specifically ordered to do so, holding that otherwise he would violating his professional duty.

It was finally agreed after Judge Hart had asked for authorities and intimated that as this was a new question he would have to examine into it that Dr. Glasgow

was a serious crime, which ought to be tried in the Assize Court.

The advocate doubtless thought Mathis would stand a better chance before a edy. The examination developed that jury. The Court, however, declared itself two of the bullets entered Mr. Carmack's heart. There were three wounds, one below the left nipple, one in the left shoul-der and one in the back of the neck. Two of the bullets were extracted from the body on the night of the shooting and the third was found lying on the street near Mr. Carmack's head.

Mr. Carmack's head.

When Dr. Glasgow had concluded the reading of the report the State did not wish to cross-examine the witness at present, but reserved the right to recall

The entire afternoon session was taken up in the direct and cross-examinations of S. J. Benning, a witness for the defence Witness, who has been a resident of this city two years, having come here from Illinois, said he was acquainted with Carmack and had met him the afternoon of the shooting in the business office of the Nashville Tennessean, of which Mr. Carmack was editor While walking

Mr. Carmack was editor While walking on Vine street, a block from the scene of the shooting. Mr. Carmack passed the witness going in the same direction.

Witness said that as Carmack passed he saw him take a pistol from the right pocket of his overcoat and turn the cylinder. In a very short time thereafter witness heard two pistol shots and saw Mr. Carmack standing on the sidewalk with his left hand on one of the poets. Benning said that he then heard three or four more shots and saw several persons four more shots and saw several persons moving about the posts, but he did got recognize them. When the last shots were fired witness turned round and went in the other direction. He did not know the result of the shooting until the fol-

The cross-examination of the witnes conducted by Gen. Garner, was rigid but he adhered to his story throughout although not altogether positive on some Dr. G. P. Edwards, who made an X ray

plate of Robin Cooper's right shoulder, said there was no bullet there. The photograph was exhibited and passed photograph was exhibited and passed to counsel for the State and on to the jury. The photograph shows the arm bones and several ribs. Other photographs showing bullets in the body of other persons were exhibited and one of the plates showed the location of a bullet in the shull. "In your opinion, doctor, did a bullet enter the body?" he was asked.

'My opinion is that it did not," he re-In this connection it will be recalled that Robin Cooper in his testimony said that a bullet was found in his bed at the hospital on the day of the shooting.

R. H. Wright, owner of phosphate mines in Lewis and Hickman counties, testi-fled that he had lent an automatic pistol to Robin Jones on the day of the tragedy. Witness identified the weapon.

FUND FOR GOLDHAMMER. Policemen Get Permission to Help the Slain Sergeant's Family.

Commissioner Bingham issued a circular yesterday granting permission to the members of the Police Department to contribute to a fund for the benefit of the family of the late Sergt. John B. Goldhammer who was shot and

The circular reads in part:

Sergt. Goldhammer left a widow and four children. The youngest child is about four months of age and the oldest is about 11 years. Not long ago Sergt. Goldhammer bought a house in The Bronx. At the time of his death there was a mortgage of \$3,300 upon this property. The money contributed will first be applied to the payment of this mortgage. Any surplus remaining after the payment of the mortgage will be turned over to the widow, to be used for the support of the family and education of the children.

hildren. The Police Commissioner thinks such contribution from patrolmen should not exceed 50 cents apiece, but it is to be dis-tinctly understood that no member of the force need contribute unless he wants to and feels that he can afford to.

Safety Appliance Act Upheld. RICHMOND, Va, March 1.-Judge Pritchard in the United States Court of Appeals, construing the safety appliance

act to-day, said: "It was the manifest intention of Congress to require all common carriers to keep their cars and engines at all times equipped with proper safety appliances. The degree of diligence required by the statute is of the highest order and the duty thus imposed is absolute and unconditional."

tional."

He upheld a lower court that had given damages to an employee because of an eccident resulting from a safety coupler being out of repair.

PLEA FOR MRS. FARMER'S LIFE. Her Counsel Ask for a Commission to De-

ermine Whether She Is Insane.

ALBANY, March 1 .- Declaring that she was insane when she murdered Mrs. Sarah Brennan at Watertown on April 23 last and still a maniso in the death house at Auburn prison, Attorney Edmund R. Wilcox, counsel for Mrs. Mary Farmer. appealed to Gov Hughes to-day to save the ondemned woman from death on March 23 in the electric chair. Mr. Wilcox saked Gov Hughes to appoint a commission of three experts on insanity to determine the question of Mrs. Farmer's mental condition. The application was opposed by District Attorney Frederick E. Pitcher of Jefferson county. He called Mrs. Farmer a "heartless, designing oriminal who ought to be electrocuted." Gov. Hughes

gave Mr. Wilcox until Saturday next to file evidence bearing on his application. Although anxious to get away to the inauguration Gov. Hughes consented to give Mr. Wilcox a hearing to-day. It was held in the Executive Chamber and lasted for several hours. Mr. Wilcox argued that Mrs. Farmer was insane when she killed Mrs. Brennan and that her condition has become worse since her detention in prison. Mr. Wilcox went into great detail over the condemned woman's present state and grew dramatic and tearful as he described her "wild, meaningless and senseless eyes." He reminded the Governor of how devoted this supposedly cruel and inhuman woman has been to her offspring in the prison and asked if he believed a woman in her right mind could commit such a crime as the killing of Mrs. Brenargued that Mrs. Farmer was insane when has Furniture the condemned and grew dras he described and senseless the Governor of osedly oruel and

a woman in her right mine could contain such a crime as the killing of Mrs. Brennan. Mr. Wilcox made light of the evidence of the insanity experts and said the fact had been overlooked that the prisoner inherited insanity.

Mr. Wilcox attempted to criticise the decision of the courts in Mrs. Farmer's coast to the averant of declaring that at case to the extent of declaring that at the most the conviction should have been

the most the conviction should have been for manslaughter in the first degree or murder in the second degree.

Gov. Hughes interrupted the attorney at this point and said: "Mr. Wilcox, I don't think you had better discuss that with me; you should confine yourself to legitimate questions which I may have to consider."

Mr. Wilcox concluded his argument by declaring that there was prejudice toward

declaring that there was prejudice toward his client and that it was impossible to get a fair trial in Jefferson county. "I get a fair trial in Jefferson county. believe," he said, "that the senter believe," he said, "that the sentence should be commuted; capital punishment should cease."

District Attorney Pitcher said he realized all the sympathy that the defence would attempt to arouse for Mrs. Farmer. As a matter of fact her general reputation was bad. She was wanted in Buffelo and Waterstern a large and was

falo and Watertown on larceny charges and her entire life had been devoted to wilful violations of the law, culminatcharges ing in her capital crime. Mr. Pitcher said he feared the appointment of a commission might result in a miscarriage of

justice.

"Mrs. Farmer planned the murder of Mrs. Brennan coolly and deliberately," said Mr. Pitcher. "She fully realized the enormity of her act and should be compelled to take the punishment prescribed

HOTCHKISS NAMES HURRELL. Appoints Him Counsel for the State Insurance Department.

ALBANY, March 1.-Superintendent William H. Hotchkiss of the State Insurance Department to-day announced that he appointed Alfred Hurrell, at present an Assistant District Attorney of Erie county, as counsel to the department. This is a new position, created, it is understood, upon the suggestion of Gov. Hughes and provided for in the annual appropriation bill to be passed at this session of the Legislature, Mr. Hurrell is one of the younger leaders of the bar of Buffalo. He ranked high in the law school, became an instructor there, and is now one of its faculty. Superintendent Hotchkiss says faculty. Superintendent Hotchkiss says the position was given him without solici-

tation.
"His standing in Buffalo," says the Superintendent, "may be judged from the fact that public opinion had already selected him as the most worthy suc-cessor of Assemblyman John Lord O'Brien, who is soon to resign his seat in the lower house to become United States District. Attorney for the Western District of New York."

mediately and take up his new duties.
The salary is \$5,000 a year. Mr. Hurrell
was born in Canada, is 35 years old and
has lived practically all his days in

WOMEN PLEAD FOR FAT ROBBER

Ninety of Them Say He Protected The but That Doesn't Save Him.

WHITE PLAINS, March 1.-William Green of Ossining, the 250 pound robber who made several novel pleas to save was run over by a sprinkler car belonging to the company and both arms were cut which was that he was too fat to drag off. There was a trial of the case in which was that he was too fat to drag a man through an alley nine and threequarter inches wide, where it was said he had robbed him (which was too thin for the Court), will have to spend a lnog term in prison.

To-day when he was arraigned for sen-tence at White Plains the most remarktence at White Plains the most remarkable petition ever presented in West-chester county asking leniency for a prisoner was submitted to County Judge Platt by Green's lawyer, Benjamin Fagan. The petition was signed by ninety women who live near the Westchester Bridge in Ossining where many holdups have occurred and near where Green robbed Frank Baker of \$10. It said among other things: things:

We do hereby certify that we always felt safe in passing this section while William Green was in that neighborhood, because he would never let any Italians bother us. We believe that he has made this place safe for ladies to pass by without any inter-ference or fear and we pray for leniency

Assistant District Attorney Davis showed that Green had served several showed that Green had served several terms in the penitentiary and that his record was bad. Lawyer Fagan said that drink had brought Green to his present plight. Judge Platt told Green he could give him twenty years but in view of the pleas for leniency he must serve from four years and six months to six years and six mouths at hard labor in Sing Sing.

When Green, was being taken to prison he wept and declared "The cursed rum has ruined me."

Jury Disagree in Suit Against Simeon Pord.

The trial of Mrs. Catherine de Wolf's suit for \$10,000 damages from Simeon Ford and Samuel J. Shaw, proprietors of the Grand Union Hotel, resulted yesterday in a disagreement, and a new trial will be held next month. Mrs. de Wolf's brother, George L. Catlin, was ordered out of her room in the hotel on the ground that he was not her husband.

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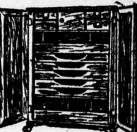
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BUT JEROME HAS QUIT. 'Cigarettes and Highballs" Can't Be

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"Silver Plate that Wears"

Working Overtime, Inspector McCafferty, A story was current about Police Headquarters yesterday that Inspector McCafferty, who is in charge of the Detective Bureau, had replied to recent criticisms of his conduct by District Attorney Jerome by saying that "cigarettes and highballs must be working overtime."

The remark was said to have been made by the inspector to his detectives at mornby the inspector to his detectives at morning roll call on Saturday. On Friday Inspector McCafferty had been called before the Grand Jury by Mr. Jerome and asked to explain his statement that the conviction of Paul Kelly, the motorman of the Ninth avenue elevated train which ran off the curve at Fifty-third street, had been a mistake. The inspector had a bad half hour with the Grand Jury and its believed to have heard some pretty sharp things from the District Attorney. When Commissioner Bingham was asked yesterday concerning the trouble.

asked yesterday concerning the trouble between his inspector and the District Attorney he said that Mr. Jerome had been up to see him about something. Inspector McCafferty had said or done, but he didn't care to discuss the matter until he had had a talk with the inspector

imself.
The District Attorney has been on the water wagon for over three months and hasn't smoked a cigarette in the same time. l'ea and cigars have taken the place of the former stimulants.

\$16,000 FOR LOST' ARMS.

Boy's Suit Against Railroad Company Settled-Father Gets \$2,000. When the suit of Patrick Clark, as guardian for his son John, against the Richmond Light and Railroad Company for \$50,000 damages for personal injuries was called for trial yesterday before
Justice Kelly in the Supreme Court,
Brooklyn, it was announced that the
case had been settled out of court. It
was learned that the company had agreed
to give the boy \$16,000 and the father
2,000

On September 10, 1906, when the family lived at New Brighton, Staten Island, the boy, who was then 2½ years old, Richmond county in October, 1907, and it resulted in a disagreement. The case was subsequently transferred to Kings county, the family having moved to Brooklyn.

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